

STAFFORD COUNTY PLANNING COMMISSION

March 17, 2010

The meeting of the Stafford County Planning Commission of Wednesday, March 17, 2010, was called to order at 6:32 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Fields, Rhodes, Hazard, Mitchell, Kirkman and Hiron

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Stepowany, Hudson and Johnson

DECLARATIONS OF DISQUALIFICATION

UNFINISHED BUSINESS

Mr. Howard: Tonight we have some unfinished business on the agenda. We are going to hear from Mr. Brad Johnson who is from the Department of Economic Development and I believe he is going to cover the Southern Gateway and Falmouth Village Redevelopment Areas, which is what we had requested at the last meeting. Mr. Johnson, good evening.

1. Southern Gateway and Falmouth Village Redevelopment Areas - Presentation by Brad Johnson, Department of Economic Development

Mr. Johnson: Thank you. I'm Brad Johnson, Redevelopment Administrator for the County. You will recall I was here two weeks ago and presented the Boswell's Corner and Courthouse Redevelopment Plans. The night before, on March 2nd, the Board of Supervisors had also approved the Falmouth and Southern Gateway Plans for us to bring forward to you for consideration, and I am here tonight to talk about Falmouth and Southern Gateway.

Mr. Howard: Great.

Mr. Johnson: Before I get started, you did ask some questions last time of staff and we did do that research and the information is in the staff report that you have in front of you as well. And we can certainly talk about that as well. My topics tonight, I will continue with key findings and recommendations as I did last time. Tonight will be on Falmouth Village and the Southern Gateway and I will wrap up with a discussion on some staff recommendations on implementation. And that may be more of a discussion item between myself and Mr. Harvey. To begin, in Falmouth we have some good news. If we don't do anything at, like we explained last time, if we don't implement the Redevelopment Plan and its recommendations, we found that the infrastructure capacity is generally adequate for a five year market demand for up to an additional 3,000 square feet of office and 14,000 square feet of retail. And also, the not-so-good news, if we do nothing, as we all know we have some transportation, environmental and cultural resource challenges there. Highlights from the Plan; areas outside the intersection improvements footprint that VDOT is entertaining are suggested for new development and where owners can relocate homes with historic significance that are at risk due to those intersection improvements. The goal in the Bottom is to preserve and protect our cultural resources while fostering the establishment of a heritage tourism destination featuring a Riverfront Park, a River Overlook and the Belmont Ferry-Farm Trail. The open space and circulation plan; the Heritage Tourism goal for Falmouth Bottom is realized through enhanced recreational activities and

Planning Commission Minutes
March 17, 2010

opportunities. The Belmont-Ferry Farm Trail, a Riverfront Park, and this has been envisioned since the 1970s, non-invasive public parking and a new trail connection under Warrenton Road all work in consort with intersection improvements to bring new opportunities to the area. I will remind you and I think I pointed this out earlier when I was here before, at the time we did the Plan, VDOT was still considering the single point urban intersection design. And at the time we were doing the Redevelopment Plan that was the endorsed option of the Board of Supervisors. Since that time the Board has now changed their recommendation and they are supporting the at-grade solution that VDOT is currently looking at. But as you look at the exhibits and Redevelopment Plan, we are still showing the old footprint. That specific element on the Redevelopment Plan is not that significant because we have tried to stay outside whatever footprint that they are trying to work with. And what we've tried to do is maintain a circulation system before, during and after any improvements that are done in Falmouth. And that is also consistent with the Board's recommendation. What I have here, like last time, are a couple of artists' renderings of what the future Falmouth Village... this is the area up on top of the hill... what that might look like. The top picture would be looking north along Carter Street. Now, right now, that's housing and you have to sort of visualize in your mind what Carter Street looks like today to get a sense of where that picture is visualizing. The lower picture is looking eastward along Butler Road. You will recall from the earlier slide, we had anticipated perhaps some public parking along Butler Road that would keep traffic out of the sensitive historic areas down along the river. We thought let's put parking up along Butler Road which is one of the arterials and it would help keep the traffic out of the sensitive areas. That parking lot would roughly be on the right-hand side of this image. In the background on the right-hand side you will see the Falmouth Baptist Church. That will help you orient yourself. We are also proposing some streetscaping improvements. The top picture will probably help you orient yourself to where that is. That's on Warrenton Road just east of Interstate 95 and the lower picture is what the streetscape improvements would suggest that it could look like in the future with the streetscape recommendations that we have.

Mr. Howard: Mr. Johnson is that... are you also proposing burying the power lines or is that just an artist...?

Mr. Johnson: No, that is a recommendation.

Mr. Howard: Okay. Thank you.

Mr. Johnson: We also have identified what we are referring to as the core redevelopment area. As you'll recall from earlier discussions, redevelopment boundaries that we used for study purposes are quite large. And, as we went through the analysis, we found that in the shorter term in the five to ten year horizon from an economic standpoint we identified in each of the areas a core area. And in this case, the area would be just north of the Golgotha Church, generally in the area where the Access Eye Center building is today, in generally that area. And what we are offering here is not so much a land use recommendation but more an option for what your land use plan might look like with compacting the densities and bringing that more into form which was along the lines of what was being discussed as we were putting a plan together. The meat of the Redevelopment Plan we believe are the recommendations that we offer. And the number one recommendation in all four of the Redevelopment Plan areas was to implement a form based code, at least in the redevelopment areas. In Falmouth the second recommendation is, is to install streetscape improvements. The third one is to investigate regional stormwater management, prepare a Heritage Tourism Riverfront Master Plan, develop a Pedestrian Circulation Plan, coordinate new development with the Architectural Review Board and the Historical Commission. And, in fact, we had offered during development of the Redevelopment Plan to help the Architectural Review Board with their design guidelines that they've

Planning Commission Minutes
March 17, 2010

been working on. And the timing of that project on their side and our project side just didn't really mesh well for us to do that, but we certainly intend to offer that as we move forward. And our consultants also recommend that we establish a small business support and financial assistance program. Any questions on Falmouth before we move onto Southern Gateway?

Mr. Howard: The form based code, we have that as new business to talk about. Would that be you conducting that conversation later on?

Mr. Johnson: No, I believe your agenda item on form based code will be conducted by Jamie.

Mr. Howard: Okay, great; thank you.

Mr. Hirons: I'm sorry Mr. Chairman, just a quick question. You mentioned kind of quickly I think early on some historical buildings or historical homes there in that area. How many are there in the area that could be deemed or are already deemed historical?

Mr. Johnson: I don't have the specific number with me. What we did was we took the properties that we have on record here and we conducted what the planning staff requested was a Phase 1A, which is sort of a hybrid examination. And one of the main reasons we did a Phase 1A instead of a Phase 1 is because the County doesn't really own all the property down there that we are looking at and a Phase 1 does require access to property. But what we did do is surveillance work and we confirmed and verified the existing resources that are already on record. And we did identify some new ones. I don't have that list off the top of my head though.

Mr. Hirons: And any historical buildings that were able to be moved, do you anticipate the County adding any assistance to either preserve them onsite and include them within the plan, or assist with the move of the building financially or physically in some fashion?

Mr. Johnson: We haven't ruled that out but we're not making a specific recommendation other than we did identify some areas that might be appropriate to relocate properties to should the owners or the Board at some point desire to do that. But we didn't make any specific recommendations on specific assistance to anybody.

Mr. Hirons: Okay, thank you.

Mr. Johnson: Southern Gateway. Again, we did find good news in the Southern Gateway. If we do nothing at all, the infrastructure capacity is generally adequate for a five year market demand for up to an additional 200,000 square feet of office, 250 hotel rooms, 540,000 square feet of retail and other associated mixed use opportunities. And again, the not-so-good news is if we do nothing, we do have transportation, environmental and cultural resource challenges. Plan highlights in the Southern Gateway; the northeast community features a Performing Arts Center with adjacent row houses and open space. The southwest community, which would be south of 17, features residential uses encircling an area of mixed use urban blocks and open space. The central community features large courtyards and a parking deck for convenient access to work, shops and restaurants throughout the day. The open space plan; active and passive open spaces throughout the communities will offer a mall-like town green as a center of activity for office and retail uses that will welcome commuters and visitors alike. Landscaping improvements to Warrenton Road between Interstate 95 and Jefferson Davis Highway, which will be east, will establish an inviting physical link between Southern Gateway and Falmouth Village. The plan that we had was that Falmouth Village, while it would be a heritage

Planning Commission Minutes
March 17, 2010

tourism destination, the heavy infrastructure needed to support that such as the hotels and the restaurants and the shopping would be located in Southern Gateway. That would help reduce the impacts in the Falmouth area. Again, two artists' renderings; the top one is looking northeast along Falls Run Drive. The building in the center is the visualization of the Performing Arts Center. The lower picture is in the central community looking to the south. We also had a streetscape recommendation for Southern Gateway. This particular view, as you can tell, is next to the Pizza Hut on 17 looking back toward the Interstate, and the lower picture is an example of what that might look like with the streetscaping improvements.

Ms. Kirkman: Excuse me, Mr. Johnson. Could you go back one slide please? There's already a dinner theater area in that area. What is the thinking behind putting in an additional Performing Arts Center in a different but very close location?

Mr. Johnson: Well, a couple of thoughts. We believe that with the growth that is likely to come into this area that there would be the demand for the additional facility and the type of features that might be presented at this pavilion might be different in nature than the dinner theater. It's not intended to compete; it's intended to complement.

Ms. Kirkman: And was any thought given to seeing if the existing performance space there could actually be upgraded rather than putting in capital improvements to create a whole new facility?

Mr. Johnson: At the dinner theater itself? No, we didn't look at that level of detail. We wouldn't rule it out. The Performing Arts Center is one type of use we were thinking of; some major venue that would help attract folks into the Southern Gateway. So, it might work just as well at Riverside.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Mr. Johnson, was part of the thought process maybe targeting Spotsylvania and Fredericksburg in terms of proximity to the other theater where you've got some choices and obviously geography so that the further south you are in Stafford the closer you are to those two other counties?

Mr. Johnson: That certainly did come into the economic analysis because they looked at the trade area that would radiate out from this area, and that certainly would extend to Fredericksburg.

Mr. Howard: What did they estimate as the trade?

Mr. Johnson: I don't have that specific number but it should be on the DVD that I gave you that's got the back-up material and information. And I would be happy to look into that as well.

Mr. Howard: Okay, we can look it up too. Thank you.

Mr. Johnson: In the Southern Gateway, the core redevelopment area would be north of 17, generally about where the auto auction area is. And there is no particular magic to that other than it gets toward the core of what we would believe to be the future commerce in that area. And one of the strong recommendations from the consultant was to relocate the surface commuter parking lot into a structure on the other side of 17. That, of course, certainly has not been thoroughly vetted out just as the rest of the transportation improvements. We hope we will be looking at that one when we do the Transportation Plan update. But that parking deck would form the nucleus of the major commerce in that area. Key recommendations in the Southern Gateway, again, implement form based code, install

Planning Commission Minutes
March 17, 2010

streetscape improvements, relocate the commuter lot, and plan Warrenton Road to be an eight lane boulevard between Southern Gateway and Plantation Drive. That may not be needed today but would not be a bad idea to look at that now before we get a lot of infrastructure and investment going in out there. Plan a new street connection that would connect from generally where the auto auction is over to Truslow Road. We drew a line on a map but it has not certainly been engineered or no study has been done for the Transportation Plan to pick that up. And also another street connection between Truslow Road and 17 east of 95, generally in the vicinity of where that power line easement is right now. We felt that would help provide additional capacity between Truslow Road and 17, and our goal all along is try to provide opportunities for people to get to these shopping areas along 17 without having to go out onto 17. And we felt opening this up with additional capacity could help. The street we recommend to the east along the power lines does come out fairly closely on Truslow Road to a road that is already in the Transportation Plan; that would extend from Route 1 generally in the vicinity of the Chichester property. There is a road segment in the current Transportation Plan and we kind of use that as a guide. The next step we have is the Board has suggested that this be considered for inclusion in the Comprehensive Plan as small area plans. We have some options on how exactly we might want to do that and we don't have a specific recommendation; we hope the Planning Commission would have some thoughts on how they best thought to proceed on that. And I think we are prepared to discuss that a little bit with you as well. But as far as the Redevelopment Plan, are there any questions?

Mr. Howard: Any questions? Yes Mr. Fields.

Mr. Fields: When it comes to including these in the Comp Plan, actually in 2000-2001 we developed what was called the Falmouth Plan which is also a sub-area plan. I would certainly think before this plan, or elements of it, were included in the Comprehensive Plan, I think we are going to need to take a look at the Falmouth Plan and see where the lines of convergence or opposition are, because that was a pretty thorough job at attempting to envision. And I understand some of the motivations for you to do this, but I have to say, for the record, even when I was still on the Board of Supervisors, I wasn't particularly enthusiastic about the Falmouth Village component of this because I felt that it was a desire to sort of make that area fit a mold that it wasn't really appropriate. I think Boswell's Corner, Courthouse and this Gateway are this type of planning and envisioning and works really well for them. But Falmouth Village is a completely unique and different kind of property. And so, certainly, kind of what I'm getting to Mr. Chairman, is I think, at least as we consider this, I would certainly ask that we probably need to have a committee of myself and Mr. Hirons and Mr. Crisp and Ms. Stimpson, the Falmouth and George Washington components, to sit down and look at those, because Falmouth Village encompasses both districts. And so we probably need to look at the Falmouth Plan, where it's been, how it's affected things over time, and this other plan. I don't want to hold up on the other plans but I would certainly want the Falmouth Village component of it needs a very different kind of look before I think we can say yes or no. I don't think we can say yes or no on this plan in isolation from the Falmouth Plan and the work that has already been done.

Mr. Howard: Right. Mr. Johnson, was the 2001 Falmouth Plan thoughts or I guess strategy incorporated into your thinking?

Mr. Johnson: Yes sir. We incorporated... well, we didn't incorporate, but we looked at and examined all eighteen elements of the Comprehensive Plan that were in effect at the time. And we also... and I think I mentioned this last time, what we tried to do since the Land Use Plan was under discussion the whole time we were going through this process, we sort of kept an eye on that as well just to make sure

Planning Commission Minutes
March 17, 2010

we didn't get too far away from anything that any of the Commissions and Boards were talking about at the time. But yes we did look at that.

Mr. Howard: I appreciate Mr. Fields' concern and comments and I'm not sure if a committee is needed. But it certainly makes sense for everyone to... I don't think you're going to get an answer tonight. That would be my sense. We can certainly poll the group. But certainly putting these two plans together from the last meeting and this meeting, there is a lot to look through and go back and have conversations. Each Planning Commissioner should have a conversation with their Board of Supervisors representative and really just discuss from their perspective and understand any other concerns. I think Mr. Fields brings up a good concern. I'm not familiar at all with the Plan from 2001 that involved Falmouth, but, you know, I don't know what the thinking was back then. Certainly things have changed but I am sure there are elements of that plan that those residents who still live there I would think would want to still see incorporated into your design plan. So we need to think through that. And, again, this is more directional also because to put it into the Comprehensive Plan doesn't necessarily mean that this is the only type of design that can take place or the only type of activity or the only type of land use. It is directional in nature and certainly shows the residents of the County and anyone else who wants to have an active interest in our County what the County is thinking in terms of the future growth and where that growth takes place. Were there any other questions for... yes, Mr. Hirons.

Mr. Hirons: Mr. Johnson, I am trying to see... in the Southern Gateway plan, is there any specific improvements or recommended improvements to I guess it's Sanford Street and 17, the street that takes you down towards Riverside? I actually work there at the Riverside buildings there. And coming out, it's a lot of competition in the afternoons, especially Friday afternoons, to get onto 95. In fact, coming out of the business part there, I usually have to turn left and go down and around and try to find my way out and end up on Truslow and everywhere else because everyone uses Sanford to go the back way to get an easier route onto 95 southbound. It ruins my commute but I can't complain too much because I only have a seven minute commute. So, I see it's already a bad traffic area right now. This looks like it would add a significant amount of traffic, especially in the afternoons as people are leaving shopping and everyone trying to leave work as well with more business buildings and parks and office space. Is there anything in this plan? I didn't really see anything specific on improving that intersection and interchange with 95 there.

Mr. Johnson: No, we didn't look at that level of specificity and particularly with 17. That is a primary highway and VDOT is currently looking at plans to widen it from McLane Drive out to the north or west, depending on your orientation. We did follow that discussion with VDOT very closely and, in fact, our transportation staff did offer to VDOT that instead of VDOT putting bicycle lanes out on 17 itself, that we would consider locating bicycle facilities within the redevelopment areas where everyone seemed to think it would be more safe. And that recommendation was made. On specific recommendations on that road we didn't. We did have transportation involved as we went through this. We talked a lot about that and that was in fact one of the reasons we suggested some additional connections over to Truslow was to help people not have to go onto 17 to get from one place to another. That would allow that through traffic and the visitor traffic that is so prevalent out on 17... there's not much we can do about that traffic, but there is other traffic that we might be able to give options to.

Mr. Hirons: It would be great to be able to get over or under 17.

Planning Commission Minutes
March 17, 2010

Mr. Johnson: It would. At one point, in discussions, there were thoughts about trying to connect the road around the Target, Stanstead Road, with a flyover of 17 directly onto the ramps. VDOT didn't say no, it just would not be an appropriate recommendation in here. It would just be put out on the table. How much traffic that would relieve at that intersection, I don't know, because we didn't do a traffic study on that specifically.

Mr. Hirons: Great, thank you.

Mrs. Hazard: Mr. Chairman? Sort on in the same vein as transportation, on your first slide about Southern Gateway, the infrastructure capacity is adequate for the five year market demand. Did that also include transportation infrastructure for that kind of build-out?

Mr. Johnson: Yes ma'am. It included transportation, water and sewer.

Mrs. Hazard: Thank you.

Mr. Howard: Thank you Mrs. Hazard. Any other questions from... Ms. Kirkman?

Ms. Kirkman: Yes, could you clarify that last remark because I thought a number of intersections in that area were already at a level of service of F?

Mr. Johnson: They are at times during the day. What we looked at was on an average day, in the traffic realm which is a Tuesday through Thursday on an average day during the year, and there seemed to be some adequate additional capacity out there. And we also considered improvements that had already been programmed.

Ms. Kirkman: But have they been funded?

Mr. Johnson: Well, if they've been funded and programmed... the funding and the programming go together. If it's funded then it would be programmed, but we try to figure out of those what should actually be built within that five to ten year window. The 17 improvements that VDOT is talking about are not likely to be built within the next five to ten years.

Ms. Kirkman: So, I don't understand if current intersections are at level of service F, how the conclusion was reached that there can be additional growth and there's adequate transportation infrastructure.

Mr. Johnson: A lot of the intersections that are level of service F are during peak travel periods, peak hours...

Ms. Kirkman: Which tends to be when people travel.

Mr. Johnson: Sure, but we didn't look at the peak hours. We looked at the average daily numbers. And during the day those intersections may be okay. If you went out on 17 at ten or eleven or one or two in the afternoon, it may not be level of service F.

Ms. Kirkman: So, what you're saying is it's adequate transportation infrastructure so long as people travel during the day when the least number of people are likely to travel.

Planning Commission Minutes
March 17, 2010

Mr. Johnson: No exactly. What we're saying is during the commerce period of the day, excluding the peak hour... we didn't do the peak hour. In fact, we recommended that Transportation look at that when they do the plan. But during the commerce period of the day, off peak hours...

Mr. Howard: Off peak as defined by rush hour traffic...

Mr. Johnson: Right, it's generally nine to three.

Mr. Howard: Let me see if I can help, at least clarify what you're saying. In the commerce, meaning the additional businesses and perhaps other retailers, that generally that use is seen as off peak in terms of rush hour. So, I think what Mr. Johnson is saying is that no they did not consider the grade of F and yes it is a grade of F during peak which, in this case, is being defined as rush hour. And Ms. Kirkman is correct; there certainly will be additional traffic during rush hour to go to these other services. But off peak, which could be at 6:30 in the evening when people would go to restaurants and so on and so forth may not be impacted is what you are saying, or other types of retail establishments. It doesn't sound like it was an ideal study. You looked at it and you looked at the type of use and said the uses will take place during different periods of time, as well as during peak.

Mr. Johnson: Correct. And obviously we would have liked to have been able to work with the transportation plan element component at the same time so that we could test various scenarios in the transportation model. And the schedules didn't allow that.

Mr. Howard: But you are saying after five years this thing doesn't really work.

Mr. Johnson: Well, I'm not exactly saying that because, with the economy, the five to ten years is market driven since this is an Economic Development Plan.

Mr. Howard: Absolutely.

Mr. Johnson: That five to ten could happen in the next three, or it might happen in the next twenty; it just depends. But we felt within that window, the economist we had looking at this thought that there would be adequate capacity to support this, generally speaking. There might be some spots where there are some issues, but generally speaking they thought that the capacity was adequate for this.

Mr. Howard: Right. Ms. Kirkman, I didn't mean to take your time. Was there any more information you were looking for?

Ms. Kirkman: Mr. Johnson, I'm looking at your memo dated March 17th and I have some questions. On point number one, you talk about three different types of boundaries. And the first is the boundaries included in the Redevelopment Plan RFP, and those are the ones that were included in our packet. I think those have been the ones that we've seen with the Economic Development Plans, is that correct?

Mr. Johnson: Yes ma'am.

Ms. Kirkman: Could you tell me, what were the criteria used for establishing the boundaries of those redevelopment areas?

Planning Commission Minutes
March 17, 2010

Mr. Johnson: What we did was, you may recall... in fact, on the front page of the presentation I made tonight, these are the Cunningham and Quill Vision Plans from 2006... what we tried to do is take the areas on there, place them on top of our County map, and then try to keep in mind parcel boundaries that existed at the time. And then in each of the areas, for example, the Courthouse Area, we extended the boundary a considerable distance to the west. Primarily at that time we wanted to include the area that VDOT might be considering for the interchange. And they were drawn up for study purpose reasons. And there was a team of staff that put those together and we ran those through County Administration before we included it in the request for proposals for study purposes.

Ms. Kirkman: Well, the one criteria I heard in there was boundary lines, that certainly you wouldn't want to have a redevelopment area intersect a parcel. But on a number of these redevelopment areas, there are multiple smaller parcels. What were the criteria used to determine that the redevelopment area would go here versus 400 yards down the road? How were those kinds of decisions made?

Mr. Johnson: There was no particular science to it. We were just trying to match the boundaries from the Cunningham and Quill Plan and adjust those based on factors that we thought might be coming along. They certainly weren't meant to be regulatory boundaries...

Ms. Kirkman: Cunningham and Quill, that was the consultant?

Mr. Johnson: Yes ma'am.

Ms. Kirkman: But I'm talking about the boundaries that were included in the RFP which would have come prior to the consultant.

Mr. Johnson: No, I'm sorry. The Cunningham and Quill boundaries that we drew the RFP boundaries from were done in 2006. Those were the first original boundaries that were part of the Economic Development Plan that was prepared in 2006.

Ms. Kirkman: And what criteria did they use for establishing those boundaries?

Mr. Johnson: My understanding is, again, it was illustrative; it wasn't in a regulatory sense. So there was no science behind it.

Ms. Kirkman: Well, I know it wasn't, but there must have been some sort of decision-making process about we are going to go a mile down this way or 500 feet out that way. I mean, there must have been some thinking.

Mr. Johnson: I don't know, but I can certainly research that and get you an answer.

Ms. Kirkman: And could you get us a copy of that report so we can see that?

Mr. Johnson: Certainly; I would be happy to.

Ms. Kirkman: And then can you explain, what is the difference between... you list two things here. You say the consultant redevelopment boundary refers to the boundaries included in the Master Redevelopment Plans. And then you say the core redevelopment boundary refers to the core redevelopment areas included in the Master Redevelopment Plan. What is the difference between the two?

Planning Commission Minutes
March 17, 2010

Mr. Johnson: The Redevelopment Plan has each of the sections has an overall master plan area; that's the consultant boundary. And the core area, for example, in Southern Gateway would have been that smaller area that is adjacent to the auto auction site.

Ms. Kirkman: This is the second consultant areas, not Quill?

Mr. Johnson: Correct.

Ms. Kirkman: Okay.

Mr. Johnson: The second ones are both from the CMSS Study which is on the DVD that you have.

Ms. Kirkman: Okay. And can we get... we weren't given copies of those. Can we get copies of those boundaries as well?

Mr. Johnson: We can certainly do that. We didn't know exactly what to bring forward to the Commission at this point so we thought well let's give them the DVD. It's got everything on it and if they want to have a hard copy of it we can certainly get that.

Ms. Kirkman: Yeah, the DVD, I started going through that. That's a lot of material to go through, so if you could pull that out, that would be great.

Mr. Johnson: What we're doing right now, on March 2nd the Board did ask us to put some additional language in and I included that in your memo. I am getting that information added to the documents and as soon as I get that back from the consultants, we will go ahead and get new DVDs made. And I've got a few copies in hard copy of this right now and we will go ahead and get those fixed. And I think the plan is that we will get the Planning Commission and I think the Board we actually gave them copies; some of the Board members wanted to keep the hard copies and some of them said no, the DVD is fine. So, we will take care of that and get that to you as soon as we...

Ms. Kirkman: Yeah, and if you could pull out those particular pieces, that would be helpful. And then, I didn't see it in there but maybe it is, if each of these sets of boundaries is overlaid on County aerials?

Mr. Johnson: Yes.

Ms. Kirkman: For each of the set of boundaries?

Mr. Johnson: Yes. I did not give you... the one I included in this memo doesn't have the boundary but we do have that. It just wasn't the one I picked out to show you.

Ms. Kirkman: And then, I guess if you could explain to me a little bit about the use of the term redevelopment. Clearly, down in the Southern Gateway, it clearly makes sense; there is a lot of hardscape already in place there. To a certain extent that's true in Falmouth Village and to a lesser extent up at Boswell's Corner. But if you could explain to me how that's the appropriate term. In the Courthouse area, given that when you actually look at the total acreage, there is not a lot of hardscape in that acreage and, in fact, most of it is green space and this will actually be development and not

Planning Commission Minutes
March 17, 2010

redevelopment. If you could explain to me how redevelopment is a more accurate term when applied to the Courthouse area.

Mr. Johnson: I would be happy to. We had a series of long discussions early on about is this redevelopment or is this revitalization or is this reinvestment and, as we did research, we found there wasn't any real definition of any of those terms. They all seemed to overlap. Redevelopment and revitalization seemed to be more applicable to government entities getting involved in housing type projects, where they would go in and clear an area or renovate a building and then turn around and turn it into housing. And housing wasn't really the mission that we were after so we didn't really find anywhere across the country another jurisdiction that had tried something like this. So, we really didn't have a better definition other than redevelopment and that's why we used redevelopment.

Ms. Kirkman: Well, I can certainly understand, you know, that there are some grey areas in terms of the difference between redevelopment and reinvestment, but it seems like there's a fairly clear distinction between development and redevelopment. And I guess that's really the distinction that I'm trying to understand in terms of the Courthouse area. And that's why I'm interested in the aerials. I think it would be helpful to see under your key redevelopment area statistics some sort of statistics about how much... what's the percentage of impervious area or hardscape that already exists in those areas; because I think that is probably one of the defining differences between development and redevelopment is that in redevelopment you are going in where there already is impervious area, where there is already hardscape. And, as I said, it's very clear how that is applicable... you know, if you are going over an auto junction, right, you are going over hardscape. But given the amount of acreage in the Courthouse area that currently is green space, I am trying to understand why redevelopment is appropriate rather than the development term.

Mr. Johnson: And I think we have that information. We can extract that information I think from the GIS system.

Ms. Kirkman: That would be great.

Mr. Johnson: And the other thing in the Courthouse area is some of the early development in the Courthouse area is not as intense, or intense is not really the word I am looking for. It's going to be evolving is probably a better word. We do have the Courthouse streetscape project that is under way, funded through a VDOT grant. And that's going to do some streetscape improvements along Route 1 between Hope Road and the hospital. As that happens, and we are already finding that when you look at bringing Route 1 through here up to modern day standards, we are going to have some issues along that road and some of the older buildings that were built awhile back that don't even meet code today could be at risk. So, in that sense, we're suggesting those older properties that need to evolve would be redeveloped. But before I leave the streetscape subject, let me just share with you that we have talked to VDOT and VDOT is willing to let us use absolute minimums as we look at that corridor because we have some very narrow windows. VDOT and our current Transportation Plan calls for a six lane road and we are recommending a four lane road with turn lanes. VDOT has said "show us how that will work" and they have given us a lot of flexibility on if we narrow the right-of-way down to minimum standards, what does that mean and is it going to be safe and is it going to be appropriate. So, we are trying to be sensitive to the existing uses but realizing that some of those properties are old and they are going to need to evolve.

Planning Commission Minutes
March 17, 2010

Ms. Kirkman: And, I saw some of the news reports on the streetscape grant, are those going to be put along the existing right-of-way for Route 1 or what will be the widening of Route 1? I mean, is streetscape going to go in and going to be removed when Route 1 is widened?

Mr. Johnson: No, that's kind of why we had the meeting with VDOT. We said before we start spending money on engineering, we would kind of like to know where the boundaries are here. So, before we actually get into the streetscape design, the traffic engineers that we are going to be using... and it's not final, it's at VDOT right now so I can't give you a report on who they are... but before they do any of the sidewalk design or any of the other amenities, we need to get into an agreement with VDOT on how wide is that right-of-way going to be.

Ms. Kirkman: And will some of that be affected by the thoughts that they will be sort of like a ring or connector around the Courthouse/Jeff Davis intersection there?

Mr. Johnson: Yes ma'am.

Ms. Kirkman: So that you could do a narrow road from Hope down to the hospital because you are going to have another road that is going to be basically a circumference road?

Mr. Johnson: Exactly.

Ms. Kirkman: Okay, thank you.

Mr. Howard: And we did talk about that at the last meeting. We even mentioned Jason Mooney Drive as one example and you pointed out that the opposite side you were looking to make a circular way around that intersection as well. Okay, are there any other questions for Mr. Johnson? So, let's just recap what we're asking. Methodology on the boundaries from the Quill plan from 2006; what is the methodology on those. The CMSS study boundaries as well. And actually I would like to see the two compared if you could. So, I don't know if there's a way to take what they recommended as boundaries and what was recommended in 2006.

Mr. Johnson: Do you mean like graphically, on a map?

Mr. Howard: If you could.

Mr. Johnson: I believe we can do that.

Mr. Howard: Okay. The aerial overlay with the boundaries. And then this was similar to what Mr. Hirons was asking; any transportation plans or changes. If you could just pull those out for us because you've got a lot of information, which is great, but that's important to all of us and we just want to understand that as you thought through some of these changes and this redevelopment. What were your thoughts and what were the thoughts of the group on the transportation; if we could see that extracted somehow, that we can have a sense for that.

Mr. Johnson: I would be happy to.

Mr. Howard: And then, again, I don't think we are ready to give an answer today because there are some questions we would like... if this could be done by the 7th, great. If not, I don't think we want to go past the second meeting in April though.

Planning Commission Minutes
March 17, 2010

Ms. Kirkman: Excuse me, Mr. Chair? I had also requested some kind of metrics on the hardscape on each of the...

Mr. Johnson: Pervious and impervious areas.

Ms. Kirkman: Yeah, and then did you get the boundaries overlayed on aerials?

Mr. Howard: Yes, the aerial overlays with boundaries.

Mr. Johnson: And that's for all four of the areas, correct?

Mr. Howard: Yes. I mean, absolutely, so we can evaluate it. Mr. Hirons, does that cover your transportation concern?

Mr. Hirons: Yes it does.

Mr. Howard: Okay. And then I will appoint a committee. Mr. Harvey, if we appoint a committee, what is required? And maybe Mrs. Roberts can answer as well. What do we have to do in terms of, it would be a committee of two basically, but what do we have to do to notify the public on that? How much cost is involved in that?

Mrs. Roberts: It's just the meetings have to be announced three days in advance and there actually can be no cost. You can get it on the website and the public information officer has where they list the things.

Mr. Howard: Okay. So, if Mr. Fields and Mr. Hirons are in agreement, they would be the committee of two and to look at the Falmouth information and the Southern Gateway that was presented today.

Mr. Hirons: Mr. Chairman and Mr. Fields, are we going to try to include our members of the Board as well?

Mr. Fields: That was my thought.

Mr. Howard: That you can do but Chairman Dudenhefer has to do that.

Ms. Kirkman: I am sure you can extend an invitation.

Mr. Howard: And you should. And I would think you would want to touch base and I am sure Mr. Fields brought up some good comments about the 2001 plan that was referenced. And I don't have any information at all myself on that, so I wouldn't even attempt to answer any of those concerns that he had.

Mr. Hirons: Where might we be able to get some of that material?

Mr. Fields: Yeah, I am sure planning has a copy of the plan.

Mr. Harvey: Yes we do.

Planning Commission Minutes
March 17, 2010

Mr. Fields: It should be easily available.

Mr. Howard: And I include the Southern Gateway in there, Mr. Fields, just because it does touch both magistrates and I think it's important that you evaluate everything together.

Mr. Fields: Okay.

Mr. Howard: Is that possible that that can get done before the 7th? Or do you want to wait until the second meeting in April to give yourself some time to work through that?

Mr. Fields: I guess we will just have to see what peoples' schedules are.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Chair? Mr. Johnson, I almost hesitate to ask this but was the Falmouth Plan provided to all these consultants?

Mr. Johnson: Yes ma'am.

Ms. Kirkman: Okay, good.

Mr. Johnson: All eighteen elements of the Comp Plan were provided to the consultants.

Mr. Howard: Great. Mr. Harvey, did we capture everything from your perspective?

Mr. Harvey: Yes sir. I was taking notes and I will confer with Mr. Johnson and make sure we got everything.

Mr. Howard: Okay. So, the subcommittee, which is Mr. Fields and Mr. Hirons, will work diligently, coordinate schedules, and I am sure they will be in touch with Mr. Johnson.

Mr. Fields: We will try to meet as soon as we can get everybody together.

Mr. Howard: Right. We look forward to that. Thank you, Mr. Johnson.

Mr. Johnson: Thank you Mr. Chairman.

Mr. Howard: And the next item on the agenda was the Boswell's Corner but that obviously is part of this whole discussion so that will be deferred until the next meeting as well. And then the third item on the agenda is nonconforming structures.

2. Boswell's Corner and Courthouse Road Redevelopment Areas - Presentation by Brad Johnson, Department of Economic Development (**Deferred to March 17, 2010**)

3. Nonconforming Structures (**Time Limit: June 1, 2010**)

Mr. Harvey: Yes, Mr. Chairman. Ms. Hudson is here to give the Commission a little bit more of a briefing than we had at the last meeting. As you will recall, at the last meeting I reported that the

Planning Commission Minutes
March 17, 2010

Board had referred this ordinance to you, as well as item 4 on your agenda, and the Commission asked that we bring these to work session today.

Mr. Howard: Great, thank you. Ms. Hudson?

Ms. Hudson: Good evening Chairman and members of the Planning Commission. This issue before you this evening is to consider a proposed amendment to Section 28-273, Nonconforming Structures, of the Zoning Ordinance to become consistent with State Code. The Virginia General Assembly adopted a Bill 1680 last Spring which provides the owner of any building or structure damaged or destroyed by natural disaster or other act of God may repair, replace or rebuild such building or structure to eliminate or reduce the nonconformity to the extent possible without the need to obtain a variance from the Board of Zoning Appeals. The proposed language in this Ordinance, O10-04, was taken directly from the State Code. As Mr. Harvey said at the meeting of February 16th, the Board of Supervisors adopted a resolution to send the proposed ordinance to the Planning Commission for a public hearing and consideration. The staff does recommend that the Planning Commission schedule a public hearing on this matter for its April 21st meeting. If you have any other questions, I will be happy to answer them.

Mr. Howard: Thank you Ms. Hudson. We will bring it back to the Planning Commission. Are there questions from any of the Commissioners? Ms. Kirkman?

Ms. Kirkman: So, were there changes in the State law?

Ms. Hudson: Yes. The changes were to allow structures and buildings to be rebuilt or replaced within two years of the natural disaster or other act of God. And if a federal disaster was declared, they have two years beyond the two years; so they have four years.

Ms. Kirkman: And where do... and you see this on a number of lots where there are old residential buildings that are clearly nonconforming and clearly uninhabitable... where do those type of structures... and have not been repaired in decades... where do those types of structures fit into this ordinance? Would the nonconforming use be considered discontinued? I mean, I don't understand where those kinds of things are regulated.

Ms. Hudson: Well, if it was a nonconforming use, that's different than a nonconforming structure, as you know. I believe that if the dwelling is nonconforming, if it's inhabitable, that would be a building code issue. The building official would have to declare it inhabitable. You're asking can it be repaired.

Ms. Kirkman: Can it be rebuilt? As a nonconforming structure in the same nonconforming way, if it's clear it's been uninhabited for a number of years.

Ms. Hudson: I'm not positive about that. We're talking here about the fact that the structure has been destroyed by a natural...

Ms. Kirkman: Well, the structure has been destroyed by weather over time.

Ms. Hudson: We're not talking about that here.

Ms. Kirkman: Okay. So, what is the definition of an act of God or a natural disaster?

Planning Commission Minutes
March 17, 2010

Ms. Hudson: It says the act of God shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind driven water, tidal wave, earthquake, or fire caused by lightning or wildfire.

Ms. Kirkman: So, isn't that what happens to these buildings? I mean, it's been wind driven rain and those sorts of natural forces that have led to them being uninhabitable.

Ms. Hudson: I don't think...

Mr. Howard: Let me try to get some clarification from Ms. Kirkman for us, Ms. Hudson. I think the building code is different from what this ordinance is attempting to do. And it is also...

Ms. Kirkman: Mr. Chair...

Mr. Howard: Hold on Ms. Kirkman. There is also a two year time limit so the owner of the structure would have two years of the date of the natural disaster or other act of God. So, to say something is weathering over a period of time I don't believe is applicable to what this ordinance is addressing. And we could have Mrs. Roberts weigh in but I think the building code ordinances are different in there are certain codes within the County or the state that are required, like having a floor. There are certain types of floor joists that you must have, whether it's a conforming or nonconforming structure, if it's being rebuilt, there are certain building codes that it will have to meet just to meet the building code. This is for a nonconforming building on a parcel that is either zoned differently or there are other reasons why this would be applicable. But we could have Mrs. Roberts clear any of that up.

Ms. Kirkman: Mr. Chair, having served on the Board of Zoning Appeals for five years I do understand the difference between nonconforming and building code requirements. And what I'm trying to understand here, I appreciate your opinion but it's really the Zoning Administrator that has to interpret these things and I am just trying to understand from the Zoning Administrator where those types of nonconforming structures fit within this ordinance.

Mr. Howard: Well, I think the...

Ms. Kirkman: Mr. Chair, I'm really interested in what the Zoning Administrator has to say.

Mr. Howard: We'll find out in just a minute Ms. Kirkman. I believe the origin of this change also came about because our Zoning Ordinance was in conflict with the State Ordinance which we discovered during a situation, I believe, that two applicants had gone through. So we were, in fact, as a County requiring something different than what the State was requiring. And that's the origin of this. Is that correct Ms. Hudson?

Ms. Hudson: Yes.

Mr. Howard: Okay, so Mrs. Roberts, can you answer Ms. Kirkman's question?

Mrs. Roberts: If I understand if correctly, if you have a structure that's been weathering and it is unsafe, unless the County took action to cure that under the other enabling legislations and ordinances we have, if there is a single act of God or an accidental fire that destroys it, they get two years under this statute in which to repair it.

Planning Commission Minutes
March 17, 2010

Ms. Kirkman: So, Ms. Hudson, is that your understanding is that it's a single act that is an act of God or a natural disaster so that if something is the same end state, if it took ten years to get there it could be rebuilt. But if it is as a result of a single incident then it has to be rebuilt within two years?

Ms. Hudson: I believe that the changes in the State Code that Stafford County desires to hopefully adopt, it's applicable to these natural disasters or act of God.

Ms. Kirkman: Right, and that's what I'm trying to understand is where the line is between sort of acts of God, acts of nature. So, from your understanding, is the distinction is it's a single incident as Mrs. Roberts said?

Ms. Hudson: Yes.

Ms. Kirkman: So, it would not include something that happens over time.

Ms. Hudson: I would say no.

Ms. Kirkman: Okay. Thank you for that clarification.

Mr. Howard: Thank you. Any other questions? Mr. Hiron.

Mr. Hiron: To that point, within the ordinance, should the word single apply somewhere, be inserted somewhere? Early on in Section B, destroyed by a single natural disaster or other single act of God?

Mrs. Roberts: As Ms. Hudson stated, we tracked State Code; I think it's clear and, as I said, we did track State Code. And until there is other case law interpreting it, I don't think there's a question.

Mr. Hiron: Okay, makes sense to me. Thanks.

Mr. Howard: Thank you, Mr. Hiron. Thank you, Mrs. Roberts. Mrs. Hazard?

Mrs. Hazard: I was just looking at the bottom of page 2 that there is a definition contained in there and they are trying to, I think, pinpoint it somewhat for purposes of this section when it defines act of God. That was the one that was read to us which is trying to limit it somewhat to what we are talking about; which this was taken straight from the Virginia Code, correct?

Mrs. Roberts: Correct, verbatim.

Mr. Howard: Okay, any other questions? Hearing none, does item number 4 on the agenda have a relationship to this item, Mr. Harvey?

Mr. Harvey: They are separate and independent issues, Mr. Chairman. The only commonality with them is they were referred to the Commission by the Board during the same meeting.

Mr. Howard: Right; okay, thank you. So, now that it's back in the Planning Commission and hearing all comments and questions answered, would anyone like to make a motion as to whether this should go before public hearing?

Planning Commission Minutes
March 17, 2010

Mr. Mitchell: Motion for public hearing, Mr. Chairman.

Mr. Fields: Second.

Mr. Howard: Motion was made by Mr. Mitchell for public hearing; seconded by Mr. Fields. Is there any discussion? Hearing no discussion, we will move for the vote. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. All those opposed signify by saying nay. The ayes have it; it passes 7 to 0. Thank you Ms. Hudson. Item number 4.

Mr. Rhodes: It's 7:30.

Mr. Howard: Oh, thank you very much. Good catch Mr. Rhodes.

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Howard: We will now pause for the public presentations. There are no public hearings scheduled this evening. Anyone that wishes to address the Planning Commission on anything, because there are no public hearings, may do so by walking forward to the microphone and indicate what you would like to talk about. Say your name, your address and you have three minutes to address the Planning Commission. And for those of you at home, there is actually no one in the chambers other than staff. But I do want to wait about thirty seconds. We did have a complaint two meetings ago where someone was trying to get in exactly at 7:30 and was not able to. And seeing that that individual is not here, I will just wait a few more minutes recognizing that everyone's clock could be different; although I do have 7:31.

Mr. Fields: We're not going to wait an hour though in case they forgot to set their clocks forward, are we?

Mr. Howard: Oh, that's a great point! Okay, we will now bring it back to the Planning Commission and go to item number 4 on the agenda which is Family and Minor Subdivisions.

Planning Commission Minutes
March 17, 2010

4. Family and Minor Subdivisions (**Time Limit: June 1, 2010**)

Mrs. Hornung: Good evening Mr. Chairman, members of the Planning Commission. This is an ordinance which was sent to you by the Board of Supervisors. There was a concern that the existing requirement for holding a property for fifteen years prior to subdividing, as well as, holding the property for fifteen years after subdividing might be causing a hardship for some people in the County. So, it's sent to you to actually amend the Section 22-5 of the Subdivision Ordinance to put it back to five years which both of those are listed in the State Code that allows the locality to do that. Also, adding the stepchild to the definition because our definition didn't include stepchild. In preparing the packet before you, I also noticed that number 14 under 22-5 had reference to the fifteen year as well. So that is why you see two Ordinances; O10-17 came from the Board which has the four items striking the fifteen years and changing it to five years for pre-owning, and then owning it after you subdivide, as well as in the definition adding stepchild. And then number 4 doing the same thing for striking the fifteen to five, but also in that same section of the Ordinance there is a number 14 that also makes reference. So that is why you see Ordinance O10-25 which adds number 14, because since the Ordinance came from the Board there was no stipulation in the Resolution to be able to change it for technicalities. So staff has brought you two Ordinances so that the second one includes all the references to the fifteen year. Also, the Planning Commission wanted to have a timeline of the history of the family subdivision in the County and that is also in your memo. And I will just briefly touch on that. In February of 1981, that's when the Subdivision Ordinance was amended to allow family subdivisions. Also, at that same time, not only did it allow one lot per family member but, by special exception, it allowed a one acre lot to a family member. Then in 1995, that special exception was eliminated so that the family subdivision, when it was created, it had to follow the Zoning Ordinance for that zoning district. In September of 1995, the definition was amended to add grandparent and grandchild because the State Code does define it linearly, mother, father, sister, brother, grand and step family members. Also, at that point, is when the Ordinance was amended to add a five year restriction; that you had to own it five years, meaning the property had to be in the family name for five years prior to subdividing and then also maintaining that the properties that were subdivided would stay in the family name for an additional five years before they could sell it to a non-family member. Also, lots greater than five acres were required to have a fifty foot wide easement coming off the public road. In September of 2007, that's when the Ordinance was changed to require it to have a fifteen year requirement versus a five year requirement. And then in December of 2007, for properties that were lots less than five acres, the easement was changed to require it from ten feet to twenty feet. So that gives you a little breakdown of our Ordinance amendments for family subdivisions. And this does bring it into line with the State Code. You will also see that one page gives you the sections of the State Code, 15.2-2244.1, that it does explicitly state that the Board of Supervisors has the option of amending that five year or whatever restriction the Ordinance allows to the family in case there's a hardship. So that is explicitly stated. So I added those sections in there so you could see the code section as it is referenced. So it's ready for your consideration; if you have any questions.

Mr. Howard: So, Andrea, the two issues that are different is adding the stepchild, and you're saying that's covered really in both Ordinance numbers which is the O10-25 which is new and then the R10-77, is that right?

Mrs. Hornung: No, the O10-17 is the Ordinance that came from the Board but the O10-25 is the one that adds number 14...

Mr. Howard: Which is the stepchild...

Planning Commission Minutes
March 17, 2010

Mrs. Hornung: No, it also had a reference to the fifteen year.

Mr. Howard: Oh, gotcha.

Mrs. Hornung: So it was changed to convert the fifteen to five. So both Ordinances are exactly the same except 25 is the one that adds a section that had a reference to fifteen years. So we want to make sure that if we are making changes to that section of the Ordinance to have the provisions moved from fifteen to five years, we wanted to include all sections.

Mr. Howard: Right, I got that.

Ms. Kirkman: So, basically the only difference between Resolution 10-77 and Ordinance 10-25 is that someone forgot to put in number 14 on the Resolution and the Ordinance, 10-25, adds number 14 into it.

Mrs. Hornung: Right, but Resolution 10-77, that's referring it to the Planning Commission. Ordinance 10-17 is the Ordinance that is referred to you from the Board which does not include number 14.

Mr. Howard: Right. And what Ms. Kirkman said is accurate because it was an oversight obviously.

Mrs. Hornung: That is correct.

Ms. Kirkman: But I don't understand how we can act on Ordinance 10-25 since the Board has not acted on it. And we've been told we can't advertise unless... in the past when there's been technical changes needed and the Board has not authorized us to make technical changes, we have been told we cannot make those technical changes.

Mrs. Hornung: That is correct; that is why you have two Ordinances.

Ms. Kirkman: So how can we do that now?

Mrs. Hornung: Well, that is why you have two Ordinances. Ordinance 10-17 is what was referred to you from the Board, but Ordinance 10-25 is what staff is bringing to you to make that correction, to add that additional section that was an oversight from the original Ordinance. So we didn't make a change to 17.

Ms. Kirkman: Why wasn't this just given to the Board last night so that they could fix this?

Mrs. Roberts: Mr. Chairman, if I could respond. I don't know the answer to that, why it wasn't given last night. But I believe there are two ways you can handle it. I certainly understand your concern that the Planning Commission was directed not to bring Zoning Ordinances unless they are referred down. So, if the Planning Commission thinks to be doubly safe, they can send a letter to the Board and request that because of the omission, O10-25 you would be authorized to advertise for public hearing, but I do believe the Planning Commission would be okay to advertise Ordinance O10-25, 14, as a clerical error. It was clearly the intent of the Board to do the fifteen years and paragraph 14 is just talking about the waiver before the fifteen year period. So I believe there are two ways the Planning Commission could handle that.

Planning Commission Minutes
March 17, 2010

Mr. Howard: So, Mrs. Roberts, for clarification, if we agree this should go to a public hearing, it would be permissible to include O10-25 with advertising at the same time for O10-17.

Mrs. Roberts: In my opinion, yes; it was a clerical error.

Mr. Howard: Okay, thank you.

Ms. Kirkman: But even clerical... we've been told time and time again that we can't make any technical, clerical, any changes to what the Board has handed to us. And so I'm trying to understand why now it's okay.

Mrs. Roberts: Well, a letter to the Board would certainly be appropriate also. But I don't think 14 changes the meaning and the intent of what the Board asked the Planning Commission to consider.

Ms. Kirkman: Mr. Chair, I had one other question. Could you please explain what the thinking was... I mean, this was changed from five to fifteen years. Either is acceptable under the State Code so the change to the five years is not required by State Code. And it was changed from five to fifteen years just a little over two years ago. What was the thinking about changing it then, because clearly that happened and there must have been a reason for that.

Mrs. Roberts: Mr. Chairman, if I could. Ms. Kirkman, in 2007 there was a Bill 856 passed by the Assembly that added a new provision regarding an alternate for family subdivisions which specified the fifteen years. So, it appears, although I didn't review the minutes or anything, it appears when the Assembly adopted this making it clear that fifteen years would be acceptable, it appears that the Planning Commission...

Ms. Kirkman: But at that time, five years was also acceptable.

Mrs. Roberts: Correct.

Ms. Kirkman: Fifteen years was not mandated as the minimum so clearly the Board felt that there was a need to change it from five to fifteen years. And what was the need that the Board was trying to address by making that change just a little over two years ago?

Mr. Fields: Mr. Chairman, if I might since I was on the Board that voted for this.

Ms. Kirkman: Oh, well there you go!

Mr. Howard: Okay Mr. Fields.

Mr. Fields: The change was made because, and I know Mr. Howard is going to cringe because he knows what I'm going to say and I went off on this last time, it was changed because of an egregious abuse of family subdivision process. And the idea being if you are going to give people relief from a great deal of regulatory things, which you do in a family subdivision which we all believe is a great way to keep families together, that you need to require them to make a substantial commitment to keep it in the family. And given that there's an appeals process at any single point, six months down the line if there's a true hardship you can come to the Board and be relieved of it. We relieved several while I was on the Board. But the thinking was families that want to take advantage of this should be

Planning Commission Minutes
March 17, 2010

required to hold this in their family, not be able to turn it around for profit in five years; which is generally what had happened with a great number of family subdivisions.

Ms. Kirkman: Mr. Harvey, approximately how many family subdivisions per year were we getting when it was a five year limitation and how has that changed in the two years that it was a fifteen year limitation?

Mr. Harvey: I would have to go back and research the specific numbers, but sort of where the magnitude is, we used to get about seven to ten family subdivisions a year. Once the change went to fifteen years for both the prior ownership before transfer and ownership after transfer, the number dropped to about one a year.

Ms. Kirkman: Okay. And when you do your research, could you also look at those family subdivisions that occurred more than five years ago under the old requirements and give us some numbers about how many of those were retained by the family member that is designated in the application after the five year period and how many of those were flipped to a non-family member after the expiration of the five year period.

Mr. Harvey: Ms. Kirkman, Mr. Chairman, we'll report to you as to change of ownership. It may be hard for staff to determine whether the further owner is a family member or not because the code says it could be to another immediate family member, so it could be...

Mr. Howard: A different last name, sure.

Mr. Harvey: It could be a different last name.

Ms. Kirkman: But you would be able to tell if there's a change of ownership that is inconsistent with the family member that is stated in the application, because that's part of the application. They have to state who is the family member that the subdivision is for.

Mr. Harvey: Correct. We can check to see if the recipient has changed.

Ms. Kirkman: Okay, that would be really helpful. Thank you.

Mr. Fields: Mr. Chairman, also I was thinking that would it be helpful for the Commission if the staff could prepare like a two column thing that shows you what you have to do for a family subdivision and what you have to do for a minor subdivision, so you can see the distinction. Because I feel one of the things that is most germane to the debate, no matter how you feel at the end of the day, is to truly understand what the difference is between a family subdivision and a conventional subdivision, because that is kind of what drives a lot of how your decision on how long to make it and how to give people relief is based on knowledge that it's something different. Can you do that? That shouldn't be too hard, right, because it is sort of a checklist of family and checklist of minor.

Mr. Harvey: Correct.

Mr. Fields: Because minor is really what you are comparing it with really, right, not major subdivision, right?

Mr. Harvey: Correct.

Planning Commission Minutes
March 17, 2010

Mr. Fields: Okay, thank you.

Mr. Howard: Any other questions of staff? Okay, hearing none, this was also sent to us with the request that we, I guess we send it to a public hearing; is that correct?

Mr. Harvey: That is correct.

Mr. Howard: When would the public hearing come up for the prior Resolution or proposed Ordinance?

Mr. Harvey: Mr. Chairman, it was discussed, for item 3 that was previously discussed on your agenda, that that would be for the April 21st meeting. But certainly it is the Commission's discretion when you want to schedule the hearings.

Mr. Howard: Right. Well, I was going to say we can... well, we can't make any changes anyway but we certainly can do the homework and give us time until the 7th to at least answer the questions and to Mr. Fields' point there are probably going to be differences of opinion but that's okay. But I'm not sure there's a reason we can't send it to public hearing for the 21st. And I think it would make sense if we are doing hearings, we want to cluster them so we are not... we could advertise these in tandem, couldn't we?

Mr. Harvey: We could. Just looking ahead, as far as our scheduling goes, we know we have a number of land use cases that are scheduled for the 21st and probably also have some other cases for May as well. So, it wouldn't be like this would be the only public hearing if we pushed it back to the first meeting in May.

Mr. Howard: Okay.

Mr. Harvey: Again, it's at the Board's discretion and we will gladly work it in wherever you think it's necessary. One issue with the advertising though is the ads for the April 21st meeting would be going to the paper in a couple weeks.

Mr. Howard: Right. So then we could just change the date on the amendment to the subdivision ordinance which we voted on before, right? Actually, I'm sorry, that's the one we are talking about now; the amendment to the Zoning Ordinance.

Mr. Harvey: Mr. Chairman, we can schedule that at any time within the month of May during your regular meeting schedule and still meet your required timeline.

Mr. Howard: Okay. So I will ask the will of the Planning Commission; is there a reason why we wouldn't vote? I know there are answers that people are looking for but at the end of the day I'm not sure...

Ms. Kirkman: As long as staff feels like they have adequate time to research the questions that we've raised here tonight, particularly regarding the change of ownership.

Mr. Howard: So, is May 5th a reasonable amount of time to retrieve that information?

Planning Commission Minutes
March 17, 2010

Mr. Harvey: Certainly.

Mr. Howard: Okay.

Mr. Harvey: Mr. Chairman, I guess for clarification when we move forward for the family subdivision issue, do we want to have the communication back to the Board asking for clarification for item 14 or do we just want to move ahead?

Mr. Howard: No, we should do that. There is plenty of time to do that so let's do that; I think that's a good idea. Send a letter to get clarification and they might even come back with direction that says to just fold that into the R10-... well, they could fold it into either one I guess, but the O10-17.

Mr. Harvey: Yes sir.

Mr. Howard: So, we'll do that and if anyone would want to make a motion to move this public hearing on May 5th.

Mr. Mitchell: Motion to move it to public hearing on May the 5th.

Mr. Howard: Is there a second?

Mrs. Hazard: Second.

Mr. Howard: Any discussion?

Ms. Kirkman: Mr. Chair, I'm going to oppose the motion because I really feel like the information that we've requested from Mr. Harvey is pretty critical in terms of determining whether or not this ordinance is necessary or appropriate. So I am going to oppose that motion.

Mr. Howard: Thank you. Okay, all those in favor... any other discussion? All those in favor of moving this to the May 5th public hearing signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. All those opposed signify by saying nay.

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion passes 5 to 2.

Planning Commission Minutes
March 17, 2010

Mr. Harvey: Mr. Chairman, just for my clarification, is that for items 3 and 4 on tonight's agenda or is that just on 4?

Mr. Howard: I would leave it as item 4 only since we voted on 3 and we set that date we can leave that.

Mr. Harvey: Thank you.

Mr. Howard: Thank you. Okay, the next item on the agenda is actually new business. These other things are deferred or for other reasons. So, item number 10 which is the...

Ms. Kirkman: Excuse me, Mr. Chair. Could we get some clarification on item number 9? That's been on here for a long time and it's deferred to a subcommittee including people who are no longer on the Planning Commission.

5. Groundwater Management Ordinance (**Deferred to April 21, 2010**)
6. Reservoir Protection Overlay District (**Time Limit: January 29, 2010**) (**Deferred to May 19, 2010**)
7. Amendments to the Comprehensive Plan (**Time Limit: June 1, 2010**) (**In Comp Plan Committee**)
8. Elimination of the Preliminary Subdivision Plan Process (**Deferred for legal analysis**)
9. Rappahannock River Overlay District (Deferred to subcommittee - Peter Fields, Ruth Carlone, Friends of the Rappahannock and Rappahannock River Basin Commission) (Request sent to Board of Supervisors for indefinite postponement)

Mr. Howard: We can. That is an item that as I understand it is, for lack of a better way of explaining it, is it's on hold I guess pending some legal issues. I don't know if Mrs. Roberts wants to answer that.

Mrs. Roberts: Sure Mr. Chairman. What I know of it, this was a subject of the lawsuit Augustine Homes and Stafford Lakes versus the Board of Supervisors. It's my understanding an Order has been signed invalidating the Ordinance; however, of course this will have other effects on subdivision approvals or cases out there. But the thirty days in which to appeal has not passed and, therefore, it's premature to make any discussions or to have discussions on this.

Ms. Kirkman: You're speaking of the Potomac River Resource Protection Overlay and I'm referring to item number 9 which is the Rappahannock River Overlay District.

Mrs. Roberts: Oh, I'm sorry, then I have nothing to add.

Ms. Kirkman: And a request was sent to the Board and, you know, I'm just sort of wondering how long we are going to keep this with a committee of people who are no longer part of the Planning Commission, Mr. Chair.

Mr. Howard: That's a great question Ms. Kirkman.

Planning Commission Minutes
March 17, 2010

Mr. Harvey: If I could elaborate a little bit, my recollection was this was an item referred to the Commission by the Board and the Commission had asked the Board for additional time to see what the outcome of the Potomac River Overlay was because the Commission wanted to look at that as the potential model for this Ordinance.

Mr. Howard: Correct.

Ms. Kirkman: Mr. Chair, I would suggest since the majority of the Board has now voted to invalidate the Potomac River Resource Overlay Protection District that we seek their guidance on this so that we can dispose of this item.

Mr. Howard: That's a good question and a good comment and we will ask the Board for that clarification on what is their expectation in terms of item number 9. So, Mr. Harvey, you can send a letter.

Mr. Harvey: Yes sir, I will send a memo up.

Mr. Howard: I think they are going to want to wait the thirty days, but we will see what happens. Okay, now to item number 10. Mr. Stepowany.

NEW BUSINESS

10. Discussion of Form Based Code - The Town Center at Aquia

Mr. Stepowany: Thank you Mr. Chairman, members of the Planning Commission. As mentioned earlier in Mr. Johnson's presentation, they used the term "form based code" and staff was asked to do a presentation on form based code; and if I can have the computer please. I refer to it as form based code in zoning. I apologize for the length of this but this has been a consistent basic definition and understanding of form based code/zoning. Also, in Wikipedia and Form Based Code Institute and other documents, form based code addresses the relationship between building facades and public realm, the form and mass of buildings in relation to one another and the scale and types of streets and blocks. The regulations and standards in form-based codes, presented in both diagrams and words, are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development rather than only distinctions in land-use types. Form-based codes are drafted to achieve a community vision based on time-tested forms of urbanism. Ultimately, a form-based code is a tool; the quality of development outcomes is dependent on the quality and objectives of the community plan that a code implements. This is in contrast to conventional zoning's focus on the micromanagement and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters, such as floor area ratio, dwelling units per acre, setbacks and parking ratios, to the neglect of an integrated built form. Not to be confused with design guidelines or general statements of policy, form-based codes are regulatory, not advisory. In that statement, I put here relationships, it talks about different types of relationships. The first one is building façade and public realm. How do you achieve that relationship? You would establish minimum and maximum setbacks if you want any, encourage on-street parking, and you encourage pedestrian travel ways, paths, sidewalks and the use of bicycles. There is a relationship of mass of building to one another that can be achieved by encouraging mixed uses and not require setbacks or buffers between uses, establish *minimum* building heights, and encourage small setbacks along the front and no side yard setbacks. And then there is the relationship for scale and type of streets and blocks and that can be achieved by the taller the building, the wider the street, and encourage a grid system with blocks and alleys. Form

Planning Commission Minutes
March 17, 2010

based code in zoning, you may have heard other buzz words: new urbanism and urbanism as in the definition, neo-traditional development, town centers, and traditional neighborhood development or TND. And the last item, the Stafford County Zoning Ordinance has adopted the Planned Traditional Neighborhood Development Zoning District, approved 12/18/07 and it was modified by the Board on 5/6/08. That is a form based code. Again, the form based code, as the relationship says, you have a building façade and public realm, establish minimum and maximum setbacks, if any. Here are a couple pictures of Traditional Neighborhood Developments. In the Zoning Ordinance, on Table 3.5, for setbacks in the Traditional Neighborhood Development it does have a minimum setbacks and a maximum setbacks. The TND Zoning Ordinance is broken up into transect zones. And not getting into the lesson on transect zones, they are basically mini zones with their own individual development standards and a TND would have a group of transect zones. So, in more intense transect zones, you have in the case of T-5 and T-6 you don't have any front setback and you do have a maximum setback. That's to keep things close in proximity to the street. In the side you have no and you may have a max. Another relationship in the building façade and public realm, again, is to encourage on-street parking, encourage pedestrian travel ways, paths, sidewalks and bicycling. And the Zoning Ordinance achieves that through Section 28-39(q)(6)a where unless listed as prohibited, all parallel parking spaces shall count towards the required number of parking spaces. The TND shall use the narrowest width of street permitted to prevent the traditional town center environment, reduce speed of vehicles, and encourage pedestrian access through the TND. And the TND Zoning District *requires* bicycle racks within the development and the number of bicycle racks required is based on the use and are very similar to a parking requirement. There's a relationship between mass of building to one another and encourages mixed uses and not require setbacks or buffers between the use, and establish minimum building heights. The reason why these pictures were chosen is when we went out to these sites, like these buildings here that are white façade up top, there is obviously retail on the ground floor but they have these little railing things outside these doors. So, we couldn't tell if these were residential units or office units. I do know that this building here is a residential unit and that's a restaurant and these are all office buildings. So, these are pictures of mixed type uses, all within one area with on-street parking and everything else. The Zoning Ordinance has a couple transect zones, T-4 and T-5, which have a *minimum* of two stories. So, you can't just have single-story strip centers and such. You are going to have some kind of form with the mass of buildings to one another. So that's an example of how the TND can achieve that. Then another relationship is scale and type of streets and blocks; the taller the building, the wider the street and encourage a grid system with blocks and alleys. And I like this picture of a town center because they have various heights, but they actually have a very tall building and for a Traditional Neighborhood Development this is generally a wider street then what you would see, but it also has taller buildings than a main street. And then this is just a block within a town center. The Zoning Ordinance, one thing that we have that a lot of other form based codes do not have is we have a building height to street ratio requirements for the T-6 and SD-C transect zones; they are based on the height of the building. You have to have a wider setback from the street. So that gives you that scale of height to street. And then this is just a typical center; this is the Virginia Beach Town Center layout with the blocks and the little alleys and everything else. They talked about what was uncoordinated parameters with form based codes; the control of development intensity through abstract and uncoordinated parameters, example, floor area ratio, dwelling units per acre, setbacks. What we're trying to say is the regulations deal more with where the building can be located and what has to be between the buildings and uses as opposed to what the buildings should look like. And the spacing and the area and everything takes away the form. So, to try to limit those types of restrictions, the TND Zoning Ordinance is exempt from Section 28-82 and Section 28-86, Landscaping and Buffering. You are required to submit your specific landscape requirements for the TND and I will get into that later. It is exempt from Article VII, Parking and Loading, and it has its own parking and loading requirements. It does permit shared parking based on uses. And what I used here for an

Planning Commission Minutes
March 17, 2010

example is always a very good use. If you have a center with a movie theater and an office, the peak demands for a movie theater and office are completely opposite. An office is Monday through Friday, nine to five, and movie theaters are evenings and weekends in general. And it's a good opportunity to provide shared parking. And the TND has no Floor Area Ratio requirements. Again, getting into other parameters, the TND does have an overall density of ten dwelling units per acre and the TND in the transect zones increases the units per acre based on the different transect zones, but there is an overall density for the overall development. So, if it's 100 acres, you are only allowed up to 1,000 dwelling units and if you have ten acres in T-4 you can only have 120 units in that ten acres of T-4. But the overall density is based on the total tract. And it also has an overall open space requirement of twenty-five percent. But again, as you get into the higher density of transect zones of T-5 and T-6, there is ninety percent maximum lot coverage and ninety-five percent maximum lot coverage. But the overall tract still must provide an overall open space requirement of twenty-five percent, but that allows the compressed development within your high intensity density type of areas that you want to concentrate that. In the definition, it talked about the regulations and standards in form based codes, presented in both diagrams and words, are keyed to a regulating plan that designates the appropriate form and scale, and therefore, character, of development rather than only distinctions in land-use types. The TND Zoning Ordinance requires a regulating plan, that's actually what it's called, in the Zoning Ordinance and it has to be submitted by the applicant if they want to rezone the property to TND. Form based codes are drafted to achieve a community vision based on time-tested forms of urbanism. Ultimately, a form based code is a tool; the quality of development outcomes is dependent on the quality and objectives of the community plan that a code implements. We refer to this community plan as what is called Neighborhood Design Standards. Again, it is a requirement and it is required to be submitted. For an example of a regulating plan, this is the Town Center at Aquia and it is broken into three different transect zones, the T-5, T-6 and SD-C. And the regulating plan needs to show where those transect zones are, where the primary roads are, civic buildings and uses, and the Zoning Ordinance defines what a civic building is, pedestrian sheds... again, it defines the diameter of a pedestrian shed and a pedestrian shed is tied to a civic building. And things like tot lots and stuff like that are not civic buildings, so if you are going to do a large scale TND you have to come up with the civic buildings and uses and that determines the pedestrian shed. Every residential unit has to be within the pedestrian shed. What your primary commercial frontage is and this determination shows the view you get of some things. This is another page of the Town Center of Aquia regulating plan. The whole site is within the 3,120 feet of a pedestrian shed and it has your primary commercial street frontages and it has your vista determinations. So this was very general but those are the requirements. And this is another part of it but this, again, shows the proposed development as it relates to the various transect zones. The Zoning Ordinance for the TND also requires a Neighborhood Design Standards and that has to provide your architectural features, your building construction elements, your streetscape and landscape requirements, and the lighting plan. Those are required to be in the Neighborhood Design Standards. This is the architectural standards for Aquia Town Center where it talks about all the different architectural features that they will provide for the Town Center. This is from their Vista and Visual Terminations that when you look down to the end of a street, what is your view and what is the architectural features of that view. So this little map here shows the different vista terminations and will require what exactly you will be seeing if you are traveling down there. Again, it's the view; it's the form of the requirement. This is a page from their lighting design. They also have another page that shows where these different types of lights will be located. And then this is, again, the streetscape and the landscaping elements that they have to provide everything down from the bike racks to the benches to the planters to the ash urns. Again, it goes into the form and the view of the development and that's what that definition asks for. In summary, ultimately form based code is a tool. We have the transect zones which give you the flexibility and coordination for a community plan with the Regulating Plan & Neighborhood Design Standards. It's a very good tool for redevelopment such as

Planning Commission Minutes
March 17, 2010

the Town Center at Aquia and the Redevelopment Areas, and also the Urban Development Areas, or UDA's, as part of the Comp Plan. And I will be more than happy to answer any questions.

Mr. Howard: Thank you Mr. Stepowany. I like the green background too.

Mr. Stepowany: A leprechaun came and did that. It was originally blue and on the web page it is blue but today it got changed to green.

Mr. Howard: Well thank you. I will bring it back to the Planning Commission; are there any questions for Mr. Stepowany? Yes Mr. Fields.

Mr. Fields: A couple. I think since at least at its core a lot of the new urbanism movement that gave rise to the form based codes is attempting to extract a guidance from looking at what most people would agree are particularly livable, sustainable, beautiful communities through the entire planet. Is form based code in and of itself simply related to what you presented here or is the workability across size and scope and location part of the concept, or is form based code more once you've decided where it's going to be and how big it's going to be how you make it grow? I mean, there is a big different between attempting to have a seven transect zoned Traditional Neighborhood Development that is 1,500 houses and one that is 15,000; you know, one that actually creates a city and one that just creates a sophisticated neighborhood perhaps. And can you get some of that transect... what are the minimum sizes where you can really start having those? The rural transect zones are really truly rural areas, almost wilderness areas. What is the current thinking... not our Code but just current in planning, the APA or the Association of City Planners... what is the current thinking among people thinking about their own planning, about where the scale of these things start to work or not work?

Mr. Stepowany: Again, it comes down to what is encouraged with form based code is what we use for transect zones and provides the smaller mixed use zoning as opposed to having multiple zoning districts. You put three or four different types of transect zones, depending on your vision, like you said your intensities and your densities, would determine which transect zones you would have. For redevelopment, you may not want the lower T-3, T-2 type of transect zones because those are going to be larger lots type of development and it was designed that way. But you may want T-4, T-5 type of transect zones and, again, what the transect zone gives you is the minimum standards is what we're looking at and in some cases there are no standards. But the division or the form is done through the other documents.

Mr. Harvey: Maybe I can help a little bit. The idea of form based code starts, I guess, primarily with what the term is called the Smart Code. And the Smart Code can be applied anywhere from a countywide basis to a relatively small project basis. But to meet the idea of having multiple transect zones, you are probably going to have to have a property of a certain size but I have not heard that there is necessarily a magic number. I think a lot of it is going to depend on your individual situation and what type of density you are looking at as well. In our County, the minimum tract size is twenty acres and we looked at it from a standpoint that this is probably going to be an opportunity for infill; that was initially a lot of the main target. That may change over time if we see that this is successful. We may do it on a broader plan. The Redevelopment Plan says that that may be a tool that we can use and probably, unless we hire consultants and work harder to come up with more detailed area plans than we have in the conceptual of the Redevelopment Plans, unless we do that level of planning we are probably going to see a project specific application come in. Now, we can take a look at that in the concept of the Redevelopment Plan and say well, we prefer the broad idea of what it shows that we have mixed use development with a higher density core near certain areas and kind of create our own

Planning Commission Minutes
March 17, 2010

regulating plan off of that, which would be very broad. And then individual people could come in with their project specific proposals to try to match the intensity of the regulating plan, but we would evaluate each one of their community standards based on things that we find desirable. There are a couple different approaches to that but, at this point in time, I don't think there is a one size fits all answer necessarily from what I've read in the planning field. It is something that people are trying to encourage again to have what everyone is terming as smart growth, where you have bringing people closer to their place of living to their place of employment to their place of shopping.

Ms. Kirkman: Mr. Harvey, it's been, I think this Ordinance was passed in 2007 so it's been a while since I've looked at the background materials, but I'm pretty sure I thought it was in the Smart Code in fact they did recommend that there were some minimum sort of acreage in residential and commercial sort of sizes that were really needed to meet the spirit of new urbanism. So, I thought in the Smart Code there were some references to those sort of guidelines?

Mr. Harvey: I believe there is. My recollection is that the Smart Code, and I would have to go back and look at it, is more geared towards a larger area than a smaller area, so there may be some derivation of that if we wanted to look at smaller, more compact, areas.

Ms. Kirkman: Could you get to us what the Smart Code has to say about that?

Mr. Harvey: Sure. We can provide the Commission with copies of the Smart Code.

Ms. Kirkman: Okay, that would be great.

Mr. Howard: Any other questions of staff? Mr. Fields, were you done?

Mr. Fields: That was the main one; I am just trying to get a handle on... there's a lot of different versions of this, let me put it that way. There are a lot of different versions of new urbanism and a lot of different theorists of new urbanism that are sometimes in conflict with each other. You will get something probably as progressive and visionary as Christopher Alexandra and then something that maybe more commercially oriented as Andres Druany and they don't really have the same vision. So, I'm just trying to get a sense of where the thinking is right now because when you really get into all seven zones and you really think it through and look it through, you are talking about a fairly broad scope. I think applying the form based codes, of course the idea is great, I always get hung up in the transects and can you really make... like Aquia Town Center, irrespective of whether it's a good idea or a bad idea, I find that I guess the idea of a parcel that small you could actually have three transects seems a little odd to me, compared to the spirit of it. But maybe I'm not understanding the thinking of it.

Mr. Harvey: Mr. Chairman, I guess we could try to provide the Commission with a copy of the transect zones for Virginia Beach Town Center.

Mr. Howard: You know, that would be a great idea; I was going to suggest that. Or also Loudoun County has done some of this recently and I drove through it about a week ago just to get a better feel for it. And I think it comes down to I don't think Stafford County can survive as a bedroom community for any place from a financial perspective. And unless we start to think differently in terms of build-out and mixed use types of developments like this, I'm not sure that the homeowners can afford not to in terms of generating different revenue and additional revenue for the County. And I understand what Mr. Fields is saying; this is not really proven yet, which is really what I think he is

Planning Commission Minutes
March 17, 2010

asking. So, if we looked at the Tidewater, I think that would be very helpful. Conversely I was surprised that the Aquia Town Center only has three transect zones. I thought there might be the need for a fourth actually to really drive it from a revenue perspective that supports the County versus costs the County. But, again, there are a lot of different theories. I don't know that any one is right or wrong, but I understand clearly what Mr. Fields was asking. Ms. Kirkman?

Ms. Kirkman: And just to follow up; Mr. Harvey, as you are doing that, could you get us, since the example of Loudoun County was used, if you could give us some sizes from their new urbanism projects. So, I just had some specific questions in terms of you said in the TND bicycle racks are required. Are bicycle paths required?

Mr. Stepowany: The rack, which is to for one bicycle, yes there is a requirement for a number of bicycle racks based on the use...

Ms. Kirkman: But are there requirements for bicycle paths?

Mr. Stepowany: Yes. Every street has to have a sidewalk or bicycle path.

Ms. Kirkman: Well, there's a difference between a sidewalk and a bicycle path.

Mr. Stepowany: I understand. But they have to have one or the other. If it's a parkway, which is a four-lane divided road with very little cross intersection, they still have to have bicycle paths; ten feet wide and sixteen feet off the side. If it's a primary road that abuts it, it has to have a bicycle path.

Ms. Kirkman: Okay, so there are some requirements for the bicycle paths?

Mr. Stepowany: Yes, and depending on the type of street, if it's a smaller internal street that's very narrow, it's going to have sidewalks. But every street in the TND has to have sidewalks or bicycle paths.

Ms. Kirkman: Okay. And then under the uncoordinated parameters where you listed the base residential density, I thought there was one of the transect zones that allowed a density of up to 100 units per acre?

Mr. Stepowany: No.

Ms. Kirkman: Mr. Harvey, what happened to that provision?

Mr. Harvey: When the Ordinance was initially drafted, it allowed higher densities than what is currently shown in this table. It was later amended to reduce it to the maximum density of ten units per acre. I believe it was one section that allowed it maybe ninety-nine units an acre...

Mr. Stepowany: Ninety-six.

Mr. Harvey: In the original proposal.

Mr. Stepowany: The original proposal was ninety-six but it was cut down to forty-eight.

Planning Commission Minutes
March 17, 2010

Ms. Kirkman: It was? Okay. And then under the open space requirement, just to clarify, typically when people think of open space, they think of green space. But under the TND, hardscape areas can be included as open space; isn't that correct?

Mr. Stepowany: It's the open space definition for the Zoning Ordinance. So if it's hardspace, a parking lot cannot count towards open space. The TND does not have a separate definition for open space.

Mr. Howard: Could you have an impervious patio though as common area that is open space I think is what Ms. Kirkman was asking.

Ms. Kirkman: Right.

Mr. Stepowany: If that's allowed in a non-TND Zoning District then it would have to be allowed in the TND also.

Mr. Howard: I can't speak to what you just presented but, in other developments, that is absolutely permitted where they count open space as these impervious areas they've created with pavers and with the park benches and some other areas where there are some other general landscape that actually could be in a large potted...

Mr. Stepowany: And the definition of open space in the Zoning Ordinance does allow for that in any development, not just TND.

Mr. Howard: I think that's what Ms. Kirkman was asking.

Ms. Kirkman: Okay. So, when we use the term open space, locally people may think of green and trees.

Mr. Howard: In Stafford County they certainly do.

Ms. Kirkman: That is not necessarily the case. It could be a hardscaped area with...

Mr. Stepowany: And, like I said, not just for TND.

Ms. Kirkman: Right.

Mr. Stepowany: The one thing I will point out for you, one thing that is different in the TND than any other Zoning District is you have the T-1 transect zone which is basically your conservation transect zone, that transect zone actually requires all RPA to be in the T-1 and then also gets into intermittent streams associated with RPA and the slope of the property has to be T-1. That is in the TND Zoning Ordinance so we are talking open space and stuff. You cannot take that part of the cultural environmental features and put it in other transect zones.

Ms. Kirkman: And then a couple of times you used the term "time tested forms of urbanism". You used it in the first slide, you used it when you were talking about regulating the community plans. What exactly does that mean?

Mr. Stepowany: Well, I didn't use it; it's what the form based code definition uses.

Planning Commission Minutes
March 17, 2010

Ms. Kirkman: And what does that mean?

Mr. Stepowany: The use of time base...

Ms. Kirkman: What is "time tested forms of urbanism"?

Mr. Stepowany: I would say the most successful form of time tested form of urbanism is the Smart Code.

Ms. Kirkman: I really don't understand that response.

Mr. Harvey: Mr. Chairman, Ms. Kirkman, I think there is probably some subjective personal understanding what that might mean but, when I hear that, I think of city streets and city blocks with sidewalks, it may have the corner store, it may have a variety of uses including maybe a place of worship and something else that makes a town or a typical city.

Ms. Kirkman: Well, that would include Anacostia and Detroit.

Mr. Howard: Yes. Washington, DC, New York City...

Ms. Kirkman: I mean, so is that our vision for Stafford County? What is it that we mean when we're saying "time tested forms of urbanism"?

Mr. Fields: They are probably implied, I would assume, that time tested means that even though they have existed for a while, they are not dismal failures like Detroit. Which is generally pointed to in most texts on urbanism is the absolute failed city. I know what you're saying... it probably means I would say different urban theorists have different meanings for that.

Mr. Howard: Yes they do. It's a great question because actually it's very debatable on both sides and it might be something that we change in our own code down the road.

Ms. Kirkman: I raise the point because it seems to be saying just because you have a cityscape that it's assumed that it's a successful... that it creates economic development. And, in fact, it seems to be the reverse, that there's some kind of economic engine that makes the city successful rather than the cityscape itself that creates the economic engine. I mean, the TND proposals that we've seen have not really... that are in the works as with the Clift Farm. Clift Farm is a TND? They're doing a P-TND I believe... over on Eskimo Hill Road that's the new variation of Stafford Town Station, Aquia Town Center, those didn't seem to really include any economic engines. Rather they included the sorts of things that were already here in the County; coffee shops, movie theaters, retail. So, that's what I'm trying to understand.

Mr. Howard: I think you are bringing up a good point. Have you been up to National Harbor? You have. So that's Ms. Kirkman's point I think is boy, that's a completely different set of rules, right, in National Harbor and Fort Washington than what existed prior to that whole development. Now, is that going to be an economic engine for Prince George's County? Absolutely. Is that over a period of time? Sure it is. And I think that's what Ms. Kirkman is suggesting; are we sure because a lot of it does have to do with your tenant mix and the thoughtful way of planning that type of community, because that community includes everything from residential to time shares to Disney's coming. They

Planning Commission Minutes
March 17, 2010

have the Gaylord Palms for conventions. I mean, it's just unbelievable; the vision of that is incredible. But I don't think that's a Stafford County; I don't think we're suggesting that. But I think it's a good question on both sides of that question. Is it tested and is this really what we want to do and what are we going to do that's different to lure those different types of mixed uses so it does become somewhat of an economic engine for the County?

Ms. Kirkman: Well, particularly if it's being offered as a solution, saying that we can't remain a bedroom community because it seems that the primary reason why we're a bedroom community is because of lower housing costs for workers who are going into DC. And so, unless the TND's are taking the jobs that are in DC and bringing them here, then we are still going to be a bedroom community.

Mr. Fields: I would also point, and I understand what you are saying, but again maybe just a quick difference of opinion. The problem with a place like National Harbor, this is kind of the question I was asking about the current thinking is that I have always had a concern about whether even if you take the form of Paris or Nice and build it where there is no necessarily logical reason for people to be and build it out in twenty-five years, have you created a kind of a very, very, very elaborate strip center? And having played in the Gaylord and actually I've had sort of a personal tour of all the major conference centers of Washington because I've played in all of them and, for example... it's just food for thought, I'm not really arguing with you... but I would say the Gaylord at the National Harbor has a very sterile artificial feel compared to playing let's say at The Hay-Adams which is right across from the White House. I don't know that the Gaylord is ever going to have the same impact as when you go up on the terrace of The Hay-Adams and are staring basically down at the White House. And so I think sometimes there are very specific places where certain things can organically grow, but I guess my problem is I don't think you can apply these concepts just to sort of any place...

Mr. Howard: I couldn't agree with you more, which I thought is what Mr. Johnson had showed us earlier. The whole reason we asked for these definitions is because many of us were unfamiliar with them actually, and I think they took a stab at that. And I think you are right; if it's not planned and thoughtful to both Ms. Kirkman's point and Mr. Fields' point, the last thing we want is an area of empty buildings.

Mr. Stepowany: For clarification, and I think Mr. Harvey may have brought this up before and what we are trying to bring to the Planning Commission, is Mr. Johnson has provided the vision of what they would like the redevelopment areas to look like and what they would like the redevelopment areas to consist of. The next variable is, how do you apply it to the Zoning Ordinance and what kind of regulations or standards do you want to have to apply to it. And through his consultants and everybody else and all the experts and all the planning and land use things, the best tool to use to meet that vision and reach that vision is using form based codes. What staff is presenting to you is, we have already established form based codes that can be used either partly or full extent to try to achieve the regulations to meet the vision. You know, to determine what the transect zones are or determine what the regulating plans look like; determine what the neighborhood design standards would look like to meet the standards. So, if someone comes in with a block within a redevelopment area, we have the regulations in place to give them guidance, so you have to have...

Mr. Howard: And flexibility.

Mr. Stepowany: And flexibility; so all the buildings have to have two stories. If you want to have some multi-family units in there, this is your density that you can have in your multi-family units. You

Planning Commission Minutes
March 17, 2010

will get shared parking because you have residential units and retail units. There are no setbacks between the uses, there is no buffering between the uses; you may have to provide some open space area but there are no floor area ratio requirements. You are allowed to have narrow streets, you have to have sidewalks, you have to have bicycle racks; all these are in place as a form based code in the TND.

Mr. Howard: There are standards but there are also some flexibility with the transect zones.

Mr. Stepowany: And that is what staff is trying to present to the Planning Commission is that we have the tools, we might need to make some tweaking, we might need to find out what transect zones, what densities, what developments, what minimum standards are required but, I guess the alternative is, staff doesn't feel like we need to reinvent the wheel. We already have the wheel in place. Aquia Town Center, Town Center at Aquia, is a redevelopment project. It will have apartments, it will have office buildings, a hotel, a movie theater, retail centers; so it's showing all that.

Mr. Howard: Right.

Mr. Stepowany: I think that's what this exercise is, is to show that we have the tools. Just how do we maneuver it? How does the Planning Commission want to make it work to meet the vision of the redevelopment areas?

Mr. Howard: Right. And remember, we had asked the question because, if ultimately, what Mr. Johnson presented does become part of the Comp Plan, then we certainly want to have a clear understanding of what the form based code and zoning look like. And, to Ms. Kirkman's point, what were some of the definitions and thoughts. So, this isn't set in stone. These are our recommendations based on what's being called today, Mr. Fields' best practices, but today they may not be, in fact, right, because it's not proven; we don't know.

Mr. Fields: There's a great deal of subjectivity in this and that's part of the problem.

Mr. Howard: Yeah, and that's accurate.

Ms. Kirkman: What is the current status of our first P-TND? Is it built out or what are the plans for building it out?

Mr. Stepowany: They brought in a partner for the residential component through the public hearing processes when the applicant was asked about the residential component of it. They have always stated that they are not a residential development; they are looking for a residential component of it and they've gone in partnership with the developers of the Virginia Beach Town Center, which is why we went down and discussed it with them down there. And staff is expecting a revised site plan within the next couple weeks where they are going to bring the residential component closer to the houses as opposed to being off to the side by the movie theater. So, they are kind of flipping where the residential component is and we are waiting for the revised site plan.

Ms. Kirkman: Will that be coming back through the Planning Commission then?

Mr. Stepowany: No. It's just a revision to the site plan. It doesn't affect the regulating plan because the transect zone is already designated for it. And it stays within the same Neighborhood Design Standards.

Planning Commission Minutes
March 17, 2010

Ms. Kirkman: Who was it that did the Virginia Beach Town Center?

Mr. Stepowany: Armada Hoffler is the name of the developer who has gone in with the partnership with Ramco-Gershenson. We are just waiting for the revised plans and they have eliminated a lot of the parking structures; they are not going to have any parking structures like they originally had. So that's the latest that we've seen.

Ms. Kirkman: Does that mean that it won't go up as high? Or in some ways is the residential kind of wrapped around the parking structure?

Mr. Stepowany: That's gone. That concept has been eliminated. They are going to bring it closer to where the houses are; they are going to put the residential components closer to where the houses are on the south side of it.

Ms. Kirkman: That was a concern of residents in Aquia Harbour. Is it still going to go up as high?

Mr. Stepowany: I think that building is only going to be four stories. There's not going to be a parking garage there next to them. I know, a lot of people still see it graded with the piles and stuff; we are just waiting for the revised plans to come in and for them to start moving.

Mr. Howard: Great. Thank you. Good update, thanks. Planning Director's Report?

PUBLIC HEARINGS

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. At the Board meeting yesterday the Board approved the zoning ordinance amendments regarding medical and dental clinics to allow them by-right in a number of commercial zoning categories. They also asked staff to work with them on a revised definition of medical/dental clinic based on the Commission's recommendation that that be revisited to be more inclusive. So, staff will be working on that for them. They also approved deleting the words "approaching confiscation" and what defines a variance in the Zoning Ordinance. They approved the provisions regarding subdivision name signs and also approved the Transportation Impact Study requirements for site plans, preliminary plans, rezonings and conditional use permits. The Board yesterday also granted partial approval of the Wyche Road rezoning. They approved the portion of the property that was already zoned B-3; they rezoned that to B-2 and did not rezone the A-1 portion of the property. There was also discussion yesterday with the Board of Supervisors regarding House Bill 1250 which seems to be moving through for ultimate passage. It would change the manner in which an affirmative governmental act could be defined. It extends any written order, determination or interpretation from a Zoning Administrator or other administrative official to stipulate that can be an affirmative governmental act. An affirmative governmental act is one of three pillars in which you can determine vesting. You have the affirmative governmental act, you have due diligence and also substantial investment towards the project. So, staff talked to the Board about it yesterday and the Board has asked staff to come back with some additional changes to the Zoning Ordinance, specifically defining who the other administrative government official would be and also maybe taking a look at the process in which the Zoning Administrator has to issue zoning determinations. Right now the Code says the Zoning Administrator has to wait thirty days after receipt of a determination request

Planning Commission Minutes
March 17, 2010

before she can render her decision. They may look at extending that so it may give some more time to reconsider our Code if there is a need to adjust our Zoning Ordinance. Also, just for the Commission's information, the Comp Plan Committee meeting tomorrow night has been reassigned to the Activities Room. It was originally scheduled for the ABC Conference Room. And staff would also request, Mr. Chairman, if we could postpone the discussion of the Groundwater Management Plan for the April 21st meeting to the May 5th meeting. The staff member who handles most of that work will be out of town during April 21st. So, if we could move it back to the May 5th meeting, staff would greatly appreciate it.

Mr. Howard: I will defer to the will of the Planning Commission.

Ms. Kirkman: You mean Rishi?

Mr. Harvey: Yes.

Mr. Howard: I'm not sure one meeting, which is two weeks for us, is a big difference. It looks like we're okay with that. Thank you.

Mr. Harvey: Thank you. And that concludes my report.

Ms. Kirkman: Mr. Harvey, did the Board take any action, like passing a Resolution asking the Governor to veto the... 1250 is it? Did they express any formal position on the matter?

Mr. Harvey: Not that I recall. I know there were a lot of questions about it and concerns but I don't recall them making a formal recommendation to the Governor.

Ms. Kirkman: And, from my days on the BZA, you know, these cases often came before us and a significant governmental act was usually something very substantial; a rezoning that involved a large application fee, engineering, soil work, some kind of act by the governing body. So whether you agreed with it or not, there was some logic behind if an investment was made, a substantial investment based on those government acts, that the rug wouldn't be pulled out from underneath the landowner. But with the Zoning Administrator determination, what's the application fee for that?

Mr. Harvey: A determination is \$390 plus costs to notify all the adjacent property owners.

Ms. Kirkman: So you could basically get vested for a \$400 investment is the bottom line.

Mr. Harvey: If the outcome comes to where the person is getting an affirmative decision, it could, yes.

Ms. Kirkman: Well, Mr. Chair, in light of that, we had worked on an elimination of the preliminary subdivision plan process around guarding against overzealous vesting. But in light of this decision, I mean, just like throw open the borders; I'm not even sure why we are going to keep a Zoning Ordinance at that point. But I recommend we take that off of our plate because this really is undoing the very concept.

Mr. Fields: I think also, Mr. Chairman, if I might quickly, to amplify that, Ms. Kirkman didn't even get into the whole fact that unlike those other things that were listed as the current governmental action, some of them are not completely transparent but a Zoning Administrator's decision is going to

Planning Commission Minutes
March 17, 2010

be completely out of the light of day. I mean, the Zoning Administrator looks at a set of plans at the request of somebody...

Mr. Howard: It's about as subjective as you can get.

Mr. Fields: Yeah, and delivers an opinion and that's the end of the thing. There's no opportunity for public input or even public knowledge, as we've seen how that can work.

Ms. Kirkman: It's really disappointing the Board of Supervisors didn't at least pass some kind of Resolution asking McDonnell to veto this because that could have maybe turned this around.

Mr. Howard: I think it's a worthy discussion. I think everyone recognizes it's not something we can act on. Committee Reports? Oh, I'm sorry, Attorney's Report. Mrs. Roberts?

COUNTY ATTORNEY'S REPORT

Mrs. Roberts: Nothing tonight, thank you.

Ms. Kirkman: I wanted to follow up; I didn't do it earlier because I felt this would be a more appropriate place. But on the Potomac River Resource Overlay District, so my understanding the status of that was the Supreme Court remanded that back to the Circuit Court, is that...?

Mrs. Roberts: I don't know the exact procedure; I know it went up to the Supreme Court and the only Order we found in the Court file was dated February 17, 2010, that just said "the case, having been disposed of in this Court, I am returning hereunder the record of exhibits". So I don't think they even sent it back.

Ms. Kirkman: Well, what was the disposition? I mean, they had to have made some ruling.

Mrs. Roberts: That the notice was invalid.

Ms. Kirkman: Did they determine that?

Mrs. Roberts: Mr. Nugent represented the County; I don't know if the County admitted or agreed that it was inadequate. I'm assuming it was because there wasn't argument after the argument to have the Supreme Court take it up. So there had to have been, and I looked this afternoon trying to find an Order to bring it tonight and I will continue and forward it to you.

Ms. Kirkman: And when is the thirty day appeal period up?

Mrs. Roberts: I don't know.

Ms. Kirkman: Okay, thank you.

COMMITTEE REPORTS

Mr. Fields: Mr. Chairman, just sort of in a general committee report thing, I know that eventually you and I are working on a committee with members of the Board of Supervisors on the UDA...

Planning Commission Minutes
March 17, 2010

Mr. Howard: We are and I hope to have a date for us.

Mr. Fields: Well, actually the request through you or for staff in general, in speaking with Mr. Crisp today he mentioned that there had been some action refining and redefining the UDA in the session in the General Assembly. So maybe, in advance of a meeting, I actually need whatever is the most current language defining UDA and that Section of the Code.

Mr. Howard: That's actually a good point. Mr. Harvey, could you do that for us?

Mr. Harvey: Yes sir, I will provide it in the next Planning Commission packet.

Mr. Howard: Thank you. Any other Committee Reports?

Mrs. Hazard: We're plugging ahead.

Mr. Howard: Okay. And Mr. Mitchell, is there any report from your side of the isle?

Mr. Mitchell: No sir.

Mr. Howard: Okay.

Mr. Fields: They took the Secretary's Report off the agenda.

Mr. Howard: They did, but I'm going to keep asking. Okay, so any other business? Hearing none...

Mr. Mitchell: Approval of minutes?

Mr. Howard: We'll move to the approval of the minutes.

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

January 20, 2010

Mr. Rhodes: I make a motion to approve the January 20th minutes that were just fifty-six days ago, by the way. Thank you very much Stacie.

Mr. Fields: Yea Stacie!

Ms. Kirkman: And I do plan on voting but there are some changes; there are some errors in the minutes, if we could have an opportunity to go over those.

Mr. Howard: We can. Do you want to do that before we... we can do that Ms. Kirkman, before we vote on it.

Mr. Fields: Before we move on it.

Planning Commission Minutes
March 17, 2010

Ms. Kirkman: On page 29, line...

Mr. Fields: Actually, point of order, there was a motion to approve the minutes and there was no second. So, we're actually in limbo; if we can either move forwards or backwards.

Mr. Howard: Mr. Fields is correct.

Mr. Mitchell: Second.

Mr. Howard: So now we're in discussion.

Mr. Fields: Thank you.

Ms. Kirkman: Page 29, line 1410, "w-i-t wit" should be "weigh... weight". Page 33, there's a typo there; I can't find it right now. I will get that one to you later; 35, line 1689, if you could just double-check the word. I'm not sure "making up" was what was in there. And then...

Mr. Howard: What was the correction Ms. Kirkman?

Ms. Kirkman: The sentence as written doesn't make any sense and I just want the language that was used in the tape double-checked. And page 64, line 3082, "make" should be "made". That's all.

Mr. Howard: Okay, Mr. Rhodes, do you accept those amendments as a friendly amendment to the minutes?

Mr. Rhodes: Certainly, and we leave the one item open to the...

Mr. Howard: I think it's just one word that's added that probably wasn't there.

Mr. Rhodes: Okay.

Mr. Howard: Mr. Mitchell, do you accept that as well?

Mr. Mitchell: Absolutely.

Mr. Howard: Okay, all those in favor of approving the minutes signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Planning Commission Minutes
March 17, 2010

Mr. Howard: Aye. All those not approving say nay. The motion passes 7 to 0, the minutes are approved. And hearing no other business, I move...

Mr. Rhodes: Mr. Chairman, I would just like to thank our leprechaun for the little snacks and care packages that were presented.

Mr. Fields: Absolutely.

Mr. Rhodes: And given all the many other things she does, thank you very much.

Mr. Howard: Yeah, thank you Stacie.

Mr. Fields: Thanks. And thank you, Mr. Chairman, for organizing the sumptuous dinner tonight. I think that was a great idea. I appreciate it.

Mr. Howard: And Ms. Kirkman, we thought that Cinco de Mayo would be another wonderful time to come in early at 5:30, just in case we forget to tell you, for dinner. The meeting is adjourned. Thank you.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:49 p.m.

Gordon Howard, Chairman
Planning Commission